

ESTTA Tracking number: **ESTTA459529**

Filing date: **03/01/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Threshold Enterprises, Ltd.		
Entity	Corporation	Citizenship	Delaware
Address	23 Janis Way Scotts Valley, CA 95066 UNITED STATES		

Attorney information	Jeremy M. McLaughlin Arnold & Porter LLP Three Embarcadero Center 7th Floor San Francisco, CA 94111 UNITED STATES trademarkdocketing@aporter.com, jeremy.mclaughlin@aporter.com, monty.agarwal@aporter.com, jessica.lewis@aporter.com Phone:(415) 471-3297		
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Applicant Information

Application No	85396136	Publication date	01/31/2012
Opposition Filing Date	03/01/2012	Opposition Period Ends	03/01/2012
Applicant	Campbell, Robert 2917 Camino Del Bosque Santa Fe, NM 87507 UNITED STATES		

Goods/Services Affected by Opposition


Class 005. All goods and services in the class are opposed, namely: Dietary herbal supplements, vitamins, and nutritional supplements
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3370447	Application Date	11/03/2005
Registration Date	01/15/2008	Foreign Priority Date	NONE
Word Mark	PLANETARY		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1984/01/01 First Use In Commerce: 1984/01/01 vitamins, dietary herbal supplements and nutritional supplements

U.S. Registration No.	1900303	Application Date	05/12/1994
Registration Date	06/20/1995	Foreign Priority Date	NONE
Word Mark	PLANETARY FORMULAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1984/01/01 First Use In Commerce: 1984/01/01 dietary herbal supplements and nutritional supplements		

Attachments	78746648#TMSN.jpeg (1 page)(bytes) PLANT HERBAL TREASURES Notice of Opposition.pdf (5 pages)(14423 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeremy M. McLaughlin/
Name	Jeremy M. McLaughlin
Date	03/01/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 85/396,136
Filed August 12, 2011
Mark PLANT HERBAL TREASURES
Published in the Official Gazette on January 31, 2012

Threshold Enterprises Ltd.,)	
)	
Opposer,)	
)	Opposition No. _____
vs.)	
)	
Robert Campbell,)	
)	
Applicant.)	
_____)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Application Serial No. 85/396,136 (“Serial No. 85/396,136”) for the mark PLANT HERBAL TREASURES, in the name of Robert Campbell (“Applicant”), which was published for opposition in the Official Gazette on January 31, 2012. Threshold Enterprises Ltd. (“Threshold Enterprises”), a corporation of Delaware with its principal place of business at 23 Janis Way, Scotts Valley, California 95066, believes it will be damaged by the registration of the mark in Serial No. 85/396,136 in International Class 005 and hereby opposes the same, in accordance with Section 13 of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Threshold Enterprises alleges as follows:

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Serial No. 85/396,136

1. On information and belief, applicant is an individual residing at 2917 Camino Del Bosque, Santa Fe, New Mexico 87507, United States.

2. Applicant filed Serial No. 85/396,136 on August 12, 2011, seeking registration of PLANT HERBAL TREASURES for “Dietary herbal supplements, vitamins, and nutritional supplements,” in International Class 005.

3. Threshold Enterprises is the owner of incontestable U.S. Trademark Registration No. 3,370,447 for PLANETARY for “vitamins, dietary herbal supplements and nutritional supplements,” in International Class 005. This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises’ exclusive right to use PLANETARY in commerce or in connection with the goods specified in the registration.

4. Since at least twenty-six years prior to applicant’s filing date for Serial No. 85/396,136, Threshold Enterprises adopted and has continuously used its PLANETARY mark in connection with vitamins, dietary herbal supplements and nutritional supplements. PLANETARY is a prominent national brand, with products available nationwide in all major markets.

5. Threshold Enterprises is the owner of U.S. Trademark Registration No. 1,900,303 for PLANETARY FORMULAS for “dietary herbal supplements and nutritional supplements” in International Class 005. This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises’ exclusive right to use PLANETARY FORMULAS in commerce or in connection with the goods specified in the registration.

6. Since at least twenty-six years prior to applicant’s filing date for Serial No. 85/396,136, Threshold Enterprises adopted and has continuously used its PLANETARY

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FORMULAS mark in connection with dietary herbal supplements and nutritional supplements. PLANETARY FORMULAS is a prominent national brand, with products available nationwide in all major markets.

7. Applicant has no license, consent or permission from Threshold Enterprises to use or register PLANT HERBAL TREASURES.

8. Applicant's mark so resembles Threshold Enterprises' PLANETARY and PLANETARY FORMULAS marks that it is likely to cause confusion, or to cause mistake or deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1052(d); and more particularly, applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods/services in Serial No. 85/396,136 originate with or are affiliated with Threshold Enterprises, or otherwise are authorized, licensed or sponsored by Threshold Enterprises.

9. By reasons of the foregoing, Threshold Enterprises will be gravely damaged by the registration of PLANT HERBAL TREASURES for the goods in Serial No. 85/396,136, because registration of that mark would be in violation of Threshold Enterprises' trademark rights.

WHEREFORE, Threshold Enterprises prays that this Notice of Opposition be sustained in favor of Threshold Enterprises and that Serial No. 85/396,136 be denied registration.

You are hereby authorized to deduct the \$300 fee for filing this Opposition, and any additional fees necessary to process this Notice, from Deposit Account No. 502387 in the name of Arnold Porter LLP.

Respectfully submitted,

Notice of Opposition
Serial No. 85/396,136

THRESHOLD ENTERPRISE LTD.

Dated: March 01, 2012

/s/

Jeremy McLaughlin
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Attorneys for Opposer

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Applicant Robert Campbell by mailing said copy on March 01, 2012, via US Postal Service:

Robert Campbell
2917 Camino Del Bosque
Santa Fe, New Mexico 87507

Dated: March 01, 2012

Signature: _____/s/_____

Type or Print Name: Jessica Lewis